

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

IN RE MICROSOFT CORP. ANTITRUST
LITIGATION

This Document Relates to:

Be, Inc. v. Microsoft Corp., No. JFM -02-2738
(N.D. Cal. No. C-02-0837)

MDL Docket No. 1332
Hon. J. Frederick Motz

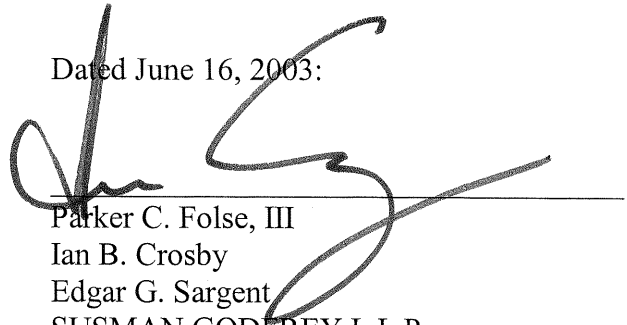
**MOTION TO COMMISSION OFFICER TO ADMINISTER OATH AND
TAKE TESTIMONY IN DEPOSITION OF FRANK ARNOLD**

Be, Inc., hereby moves the court for an order pursuant to Fed. R. Civ. P. 28(b) commissioning Anne Hazelwood, of 15 Rue de Cadix, 75015 Paris, France, to administer the oath and take testimony in the deposition of Frank Arnold, which is scheduled to take place on Saturday, June 21, 2003, in Paris, France. Counsel is informed that Ms. Hazelwood is an experienced reporter who has satisfactorily reported and administered oaths in numerous foreign depositions in U.S. lawsuits without objection by any party, and believes on that basis that Ms. Hazelwood is qualified to be commissioned by the Court for the administration of oaths and taking of testimony in this lawsuit.

As is customary in such proceedings, counsel has provided contact information for Ms. Hazelwood to counsel for Microsoft in the expectation that Microsoft would stipulate to administration of the oath by Ms. Hazelwood on investigation of her qualifications. Nevertheless, with the deposition less than a week away, Microsoft has not indicated that it has contacted Ms. Hazelwood, nor that it intends to stipulate to administration of the oath and taking of testimony by

her without a formal commission. Be therefore moves, in an abundance of caution, for an order pursuant to Fed. R. Civ. P. 28(b) commissioning Ms. Hazelwood to administer the oath and take testimony in the deposition of Frank Arnold. In the event that the Court is unable to enter the attached proposed order before the taking of the deposition, Be respectfully requests that the order be entered *nunc pro tunc*.

Dated June 16, 2003:

A large, stylized handwritten signature in black ink, appearing to read 'P. Folse', is written over a horizontal line.

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